



# Criminal Procedure (Scotland) Act 1995

## 1995 CHAPTER 46

### PART XI

#### SENTENCING

*<sup>F1</sup>The mutual recognition of criminal financial penalties*

#### Textual Amendments

- F1** Ss. 223A-223T and cross-heading inserted (12.10.2009) by The Mutual Recognition of Criminal Financial Penalties in the [European Union \(Scotland\) Order 2009 \(S.S.I. 2009/342\)](#), [art. 3](#) (with [art. 2](#))

#### **223A Recognition of financial penalties: requests to other member States**

- (1) The designated officer of the competent authority for Scotland may issue a certificate, in a form prescribed by Act of Adjournal, requesting enforcement under the Framework Decision on financial penalties where—
- (a) a person is required to pay a financial penalty;
  - (b) the financial penalty is not paid in full within the time allowed for payment;
  - (c) there is no appeal outstanding in relation to the financial penalty; and
  - (d) it appears to the designated officer of the competent authority for Scotland that the person is normally resident, or has property or income, in a member State other than the United Kingdom.
- (2) For the purposes of subsection (1)(c), there is no appeal outstanding in relation to a financial penalty if—
- (a) no appeal has been brought in relation to the imposition of the financial penalty within the time allowed for making such an appeal; or
  - (b) such an appeal has been brought but the proceedings on appeal have been concluded.

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- (3) In subsections (1)(c) and (2) “appeal” in respect of financial penalties mentioned in subsection (5)(b) and (c) includes a request made under section 302C of this Act that such a penalty be recalled.
- (4) Where the person required to pay the financial penalty is a body corporate or a partnership (including a Scottish partnership) subsection (1)(d) applies as if the reference to the member State in which the person appears to be normally resident were a reference to the member State in which the person appears to have its registered office or, as the case may be, its principal office of the partnership.
- (5) In this section “financial penalty” means—
- (a) any sum payable under a compensation order imposed under section 249 of this Act;
  - (b) any sum payable as a fixed penalty in a conditional offer made under section 302(1) of this Act and accepted, or deemed to be accepted, in accordance with that section;
  - (c) any sum payable under a compensation offer made under section 302A(1) of this Act and accepted, or deemed to be accepted, in accordance with that section;
  - (d) a fine, which is to be construed in accordance with section 307 of this Act, imposed by a court in Scotland on a person's conviction of an offence;
  - (e) a fine or other sum imposed by a court in England and Wales, or Northern Ireland, on a person's conviction of an offence which, following a transfer of fine order by virtue of section 90 of the Magistrates' Courts Act 1980 <sup>F2</sup> or Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981 <sup>F3</sup>, respectively, is enforceable in Scotland;
  - (f) a penalty in respect of which a fixed penalty notice is given under section 54 (giving notices for fixed penalty offences), or section 62 (fixing notices to vehicles) of the Road Traffic Offenders Act 1988 <sup>F4</sup>, which has been registered in Scotland for enforcement as a fine by virtue of section 71 of that Act;
  - (g) a fixed penalty notice given under section 129 (fixed penalty notices) of the Antisocial Behaviour etc. (Scotland) Act 2004 <sup>F5</sup> in respect of which section 131(5) of that Act applies; and
  - (h) expenses imposed in connection with proceedings relating to a conviction as mentioned in paragraphs (d) and (e).

#### Textual Amendments

- F2** 1980 c.43; section 90 was amended by the [Criminal Justice and Public Order Act 1994 \(c.33\)](#), [section 47\(2\)](#); the [Access to Justice Act 1999 \(c.22\)](#), section 90, [Schedule 13](#), paragraphs 95, 108 (with [section 107](#), [Schedule 14](#), paragraph 7(2)); S.I. 1995/127 and S.I. 2001/916.
- F3** S.I. 1981/1675 (N.I. 26).
- F4** 1988 c.53; section 54 was amended by the [Road Traffic Act 1991 \(c.40\)](#), [sections 48](#) and 83, [Schedule 4](#), paragraph 103(2) and (3) and [Schedule 8](#); the [Police Reform Act 2002 \(c.30\)](#), [sections 38](#), 41, 76(2), 108(2) to (5), [Schedule 4](#), paragraph 1(2)(b) and [Schedule 5](#), paragraph 1(2)(a); S.I. 1990/144; S.I. 1992/1286; S.I. 2002/2750; S.I. 2002/2306 and section 62 was amended by the [Road Safety Act 2006 \(c.49\)](#), section 5, [Schedule 1](#), paragraph 7.
- F5** 2004 asp 8.

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### **223B Requests to other member States: procedure on issue of certificate**

- (1) This section applies where the designated officer of the competent authority for Scotland issues a certificate under section 223A(1) of this Act requesting enforcement under the Framework Decision on financial penalties.
- (2) The designated officer of the competent authority for Scotland must give the central authority for Scotland the certificate, together with a certified copy, or extract, of the decision requiring payment of the financial penalty.
- (3) On receipt of the documents mentioned in subsection (2), the central authority for Scotland must give those documents to the central authority, or the competent authority, of the member State other than the United Kingdom in which the person appears to be normally resident or, as the case may be, has property or income.
- (4) Where the documents mentioned in subsection (2) are given to the central authority, or the competent authority, of the member State other than the United Kingdom in accordance with subsection (3)—
  - (a) no further steps to enforce the financial penalty may be taken in Scotland; and
  - (b) no further such documents may be given under subsection (2);unless subsection (5) applies.
- (5) This subsection applies where any of the events mentioned in Article 15(2) of the Framework Decision on financial penalties occurs; and accordingly the right to enforce the financial penalty reverts to the appropriate competent authority for Scotland.
- (6) Where the person required to pay the financial penalty is a body corporate or a partnership (including a Scottish partnership) subsection (3) applies as if the reference to the member State in which the person appears to be normally resident were a reference to the member State in which the person appears to have its registered office or, as the case may be, its principal office of the partnership.

### **223C Requests to other member States: application of provisions relating to fines**

Where the designated officer of the competent authority for Scotland has issued a certificate under section 223A(1) of this Act in respect of a financial penalty mentioned in—

- (a) section 223A(5)(d) or (h) of this Act;
- (b) section 223A(5)(e) of this Act (in terms of the application of section 222(6) of this Act); or
- (c) section 223A(5)(f) of this Act,

the provisions of section 217(3) of this Act (supervision pending payment of fine) shall apply except that the reference to the making of a transfer of fine order under section 222 of this Act shall instead be a reference to the issuing of a certificate under sections 223A(1) or 226HA(4) of this Act.

### **223D Requests to other member States: application of provisions relating to compensation orders**

- (1) This section applies where the designated officer of the competent authority for Scotland has issued a certificate under section 223A(1) of this Act in respect of a financial penalty mentioned in section 223A(5)(a).

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- (2) Section 252 of this Act shall apply, but the reference in subsection (2) of that section to section 217 is to be construed as a reference to that section modified as mentioned in section 223C of this Act.

### **223E Requests to other member States: application of provisions relating to fixed penalties**

- (1) This section applies where the designated officer of the competent authority for Scotland has issued a certificate under section 223A(1) of this Act in respect of a financial penalty mentioned in section 223A(5)(b) or (c).
- (2) Section 303 of this Act shall apply, but in the application of this Act to the outstanding amounts mentioned in subsection (1) of that section (which fall to be treated as fines by virtue of that subsection), the provisions mentioned in section [F<sup>6</sup>223C] of this Act apply modified as mentioned in that section.

#### **Textual Amendments**

- F6** Word in s. 223E(2) substituted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, 3

### **223F Recognition of financial penalties: requests from other member States**

- (1) This section applies where—
- (a) the competent authority, or central authority, of a member State (“the issuing State”) other than the United Kingdom gives the central authority for Scotland—
    - (i) a certificate requesting enforcement under the Framework Decision on financial penalties; and
    - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates; and
  - (b) the penalty is suitable for enforcement in Scotland.
- (2) If the certificate states that the person against whom the decision has been made is normally resident in Scotland, the central authority for Scotland must give the documents mentioned in subsection (1)(a) to the designated officer of the competent authority for Scotland based upon the person's residence.
- (3) If the certificate states otherwise than as mentioned in subsection (2), the central authority for Scotland must, subject to section 223P(2) and (3) of this Act, give those documents to the designated officer of such competent authority for Scotland as appears appropriate based on the terms of the certificate.
- (4) Where the central authority for Scotland acts under subsection (2) or (3), the central authority for Scotland must also give the designated officer of the competent authority for Scotland mentioned in those subsections a notice—
- (a) stating whether the central authority thinks that any of the grounds for refusal specified in Schedule 12 apply; and
  - (b) giving reasons for that opinion.
- (5) Where the person required to pay the financial penalty is a body corporate or a partnership (including a Scottish partnership), subsection (2) applies as if the reference

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to the competent authority for Scotland were a reference to the competent authority for Scotland within whose jurisdiction it appears that the person has its registered office or, as the case may be, its principal office of the partnership.

- (6) Where—
- (a) the competent authority, or central authority, of the issuing State gives the central authority for England and Wales, or the central authority for Northern Ireland, the documents mentioned in subsection (1)(a); and
  - (b) without taking any action to enforce the financial penalty in England and Wales, or Northern Ireland, the central authority for England and Wales or, as the case may be, the central authority for Northern Ireland gives those documents to the central authority for Scotland;
- this section applies as if the competent authority, or central authority, of the issuing State gave the documents to the central authority for Scotland.
- (7) Schedule 11 to this Act, which specifies when a financial penalty is suitable for enforcement in Scotland for the purposes of subsection (1)(b), has effect.

#### **Requests from other member States: procedure where no certificate**

**F7 223FA**

- (1) Subsection (2) applies where—
- (a) a requesting authority has—
    - (i) given the central authority for Scotland a decision, or a certified copy of a decision, requiring payment of a financial penalty; and
    - (ii) asked that the decision be enforced in any part of the United Kingdom under the Framework Decision on financial penalties; and
  - (b) the central authority for Scotland has not been given anything purporting to be a certificate relating to the decision.
- (2) The central authority for Scotland must immediately notify the requesting authority that the decision will not be enforced in Scotland unless a certificate relating to the decision is given to the central authority for Scotland.
- (3) For the purpose of this section, a requesting authority is to be treated as having given a decision, or a certified copy of a decision, requiring payment of a financial penalty to the central authority for Scotland if—
- (a) the requesting authority gave the decision, or the certified copy, to—
    - (i) the central authority for England and Wales; or
    - (ii) the central authority for Northern Ireland; and
  - (b) the central authority given the decision, or the certified copy, by the requesting authority—
    - (i) has not taken any action to enforce the financial penalty; and
    - (ii) has given the decision, or the certified copy, to the central authority for Scotland.
- (4) In this section, “requesting authority” means the competent authority, or central authority, of a member State other than the United Kingdom.]

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**Textual Amendments**

**F7** S. 223FA inserted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, 4

**<sup>F8</sup>223G Requests from other member States: return of certificate**

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**Textual Amendments**

**F8** S. 223G repealed (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, 5

**223H Requests from other member States: procedure on receipt of certificate**

- (1) This section applies where the central authority for Scotland gives the designated officer of the competent authority for Scotland—
  - (a) a certificate, as mentioned in section 223F, requesting enforcement under the Framework Decision on financial penalties;
  - (b) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates; and
  - (c) a notice under section 223F(4).

(2) The designated officer of the competent authority for Scotland must refer the matter to the competent authority for Scotland mentioned in section 223Q(2).

(3) The competent authority for Scotland must decide whether it is satisfied that any of the grounds for refusal, as mentioned in Schedule 12, apply.

[ The competent authority for Scotland may not decide that a ground for refusal <sup>F9</sup>(3A) specified in subsection (3B) applies unless the authority which signed the certificate referred to in subsection (1)(a) has—

- (a) been informed that the competent authority for Scotland may be minded to make that decision;
- (b) been consulted; and
- (c) where appropriate, been given an opportunity to supply any information that is necessary if the financial penalty is to be enforced in Scotland.

(3B) The specified grounds for refusal referred to in subsection (3A) are the grounds for refusal mentioned in [<sup>F10</sup>paragraphs 5A, 6 and 6A] of Schedule 12.]

<sup>F11</sup>(4) .....

(5) Schedule 12 to this Act, which specifies the grounds for refusal to enforce financial penalties for the purposes of subsection (3) and section 223F(4), has effect.

**Textual Amendments**

**F9** S. 223H(3A)(3B) inserted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, 6(a)

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- F10** Words in s. 223H(3B) substituted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 2\) Order 2014 \(S.S.I. 2014/336\)](#), arts. 1, **3**
- F11** S. 223H(4) repealed (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, **6(b)**

## **223I Requests from other member States: action undertaken under certificate**

- (1) Where the competent authority for Scotland to whom a matter has been referred under section 223H(2) of this Act is satisfied that none of the grounds for refusal to enforce the financial penalty, as mentioned in Schedule 12, apply then the competent authority for Scotland shall forthwith, and without any further formality being required, seek the enforcement in Scotland of the financial penalty.
- (2) Where the competent authority for Scotland to whom a matter has been referred under section 223H(2) of this Act is satisfied that one or more of the grounds for refusal to enforce the financial penalty as mentioned in Schedule 12 applies—
  - (a) the designated officer of the competent authority for Scotland shall return the documents mentioned in section 223H(1) to the central authority for Scotland; and
  - (b) subsection (3) shall apply.
- (3) Where the documents have been given to the central authority for Scotland by virtue of subsection (2) the central authority for Scotland shall [<sup>F12</sup>immediately return any of them which are of a type mentioned in subsection (1)(a) of section 223F to the authority which signed the certificate referred to in that subsection.]

### **Textual Amendments**

- F12** Words in s. 223I(3) substituted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 1\) Order 2014 \(S.S.I. 2014/322\)](#), arts. 1, 7

## **223J Requests from other member States: application of provisions in relation to fines**

Where section 223I(1) applies, the provisions of this Act specified in section 223K shall, subject to any necessary modifications and to the qualifications mentioned in that section, apply in relation to—

- (a) the financial penalties as they apply in relation to—
  - (i) fines imposed by the High Court;
  - (ii) sentences or decrees for fines or expenses pronounced by a sheriff court or JP court;
  - (iii) fines adjudged to be paid by offenders; and
- (b) persons liable to pay financial penalties as they apply in relation to persons or offenders in relation to whom a fine has been imposed.

## **223K Requests from other member States: supplementary provisions in relation to fines**

- (1) The provisions mentioned in section 223J are—

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- (a) section 199 (power to mitigate penalties), except that in subsection (2) the reference to the court shall be construed as a reference to the competent authority for Scotland;
- (b) section 211(3) and (4) (enforcement of fines), except that—
  - (i) in paragraph (a) of subsection (3) the reference to the district in which the sentence or decree was pronounced shall be construed as a reference to the district in which the person required to pay the fine or expenses appears to be normally resident or have property or income or, in the case where that person is a body corporate or partnership (including a Scottish partnership), the district in which that person has its registered office or, as the case may be, its principal office of the partnership; and
  - (ii) in subsection (4) the reference to the district in which the person resides shall be construed as a reference to the district in which the person required to pay the fine appears to be normally resident or have property or income or, in the case where that person is a body corporate or partnership (including a Scottish partnership), the district in which that person has its registered office or, as the case may be, its principal office of the partnership;
- (c) section 213 (power to remit fines), except that in paragraph (b) of subsection (1) the references to the court which imposed the fine and the court by which payment was first enforceable shall be construed as a reference to the competent authority for Scotland and subsection (2) shall be construed accordingly;
- (d) section 215 (further time for payment), except that, in its application to financial penalties, the references in subsection (2) to the court specified in the transfer order (or, where relevant, the last transfer order) shall be construed as references to the competent authority for Scotland;
- (e) section 216 (reasons for default), except that the court may only impose imprisonment on a person in default of payment of a financial penalty where section 223L applies;
- (f) section 217 (supervision pending payment of fine), except that the court mentioned in that section may, in relation to the person who is liable to pay the financial penalty—
  - (i) place such a person under supervision by virtue of subsection (1) of that section; or
  - (ii) order the detention of such a person under 21 years of age as mentioned in subsection (5) of that section,
 

only where section 223L applies;
- (g) section 219 (maximum period of imprisonment for non-payment of fine), but subject to the modification that the references to the maximum periods of imprisonment specified in the table in subsection (2) shall be construed as references to the maximum period as stated in the certificate;
- (h) section 220 (payment of fine in part by prisoner), except that in subsection (3) the reference to the court in which the conviction was obtained shall be construed as a reference to the competent authority for Scotland;
- (i) section 221 (recovery by civil diligence);
- (j) section 224 (discharge from imprisonment to be specified); and
- (k) sections 235 to 237 (supervised attendance).



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- (2) The competent authority for Scotland, and the designated officer of the competent authority, shall have all the like functions under this Act in respect of the financial penalty as if it were a penalty imposed by that competent authority.

**223L Requests from other member States: action for enforcement where financial penalty not recovered**

This section applies where—

- (a) a member State other than the United Kingdom has allowed for—
- (i) supervision pending payment of the financial penalty;
  - (ii) the imposition of a supervised attendance order, or detention or imprisonment in default of payment of the financial penalty,
- within the certificate referred to in section 223F; and
- (b) that measure does not exceed any maximum level for such disposal as specified in that certificate.

**223M Requests from other member States: application of provisions relating to orders for compensation**

Where section 223I(1) applies, the provisions of this Act specified in section 223N shall, subject to any necessary modifications and to the qualifications mentioned in that section, apply in relation to financial penalties as they apply in relation to any sum payable under compensation orders imposed under section 249 of this Act.

**223N Requests from other member States: supplementary provisions in relation to orders for compensation**

The provisions mentioned in section 223M are—

- (a) section 249(9) (payment of sum payable under compensation order), but that section is subject to section 223S of this Act;
- (b) section 250(2) to (4) (compensation orders: supplementary provisions);
- (c) section 251 (review of compensation order), except that in paragraph (b) of subsection (2) the reference to the court which made the compensation order, or by which the order was first enforceable, shall be construed as a reference to the competent authority for Scotland in respect of which the financial penalty was referred under section 223H(2);
- (d) section 252 (enforcement of compensation orders), except that the provisions listed in subsection (2), as modified and qualified, shall be construed as if the modifications and qualifications made to the provisions which are listed in section 223K have been so made; and
- (e) section 253(3) (award of damages in civil proceedings subsequent to imposition of compensation order).

**223O Requests from other member States: application of provisions relating to fixed penalties**

- (1) Where section 223I(1) applies, the provision of this Act specified in subsection (2) shall, subject to any necessary modifications and to the qualifications mentioned in

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that subsection, apply in relation to the financial penalties as it applies in relation to any sums payable under fixed penalties issued under this Act.

- (2) The provision mentioned in subsection (1) is section 303(1) to (3) (fixed penalty: enforcement) of this Act, except that—
- (a) the references to fixed penalty offers and compensation offers shall be construed as references to financial penalties; and
  - (b) the modifications and qualifications made by section 223K to the provisions as specified there shall be applicable where those provisions of this Act apply by virtue of section 303 of this Act.

### **223P Transfer of certificates to central authority for England and Wales, or to central authority for Northern Ireland**

- (1) This section applies where—
- (a) the competent authority, or central authority, of a member State other than the United Kingdom gives the central authority for Scotland—
    - (i) a certificate requesting enforcement under the Framework Decision on financial penalties; and
    - (ii) the decision, or a certified copy of the decision, requiring payment of the financial penalty to which the certificate relates; but
  - (b) the central authority for Scotland is not required by section 223F(2) or (3) to give the documents to the competent authority for Scotland.
- (2) If the certificate states that the person to whom the certificate relates is normally resident or has property or income in England or Wales only or, in the case of a body corporate or partnership, has its registered office or its principal office of the partnership there, the central authority for Scotland may give the documents to the central authority for England and Wales.
- (3) If the certificate states that the person is normally resident or has property or income in Northern Ireland only or, in the case of a body corporate or partnership, has its registered office or its principal office of the partnership there, the central authority for Scotland may give the documents to the central authority for Northern Ireland.

### **223Q The competent authority for Scotland**

- (1) In sections 223A to 223E of this Act “the competent authority for Scotland” is—
- (a) in respect of a financial penalty mentioned in—
    - (i) section 223A(5)(a) or (d) of this Act;
    - (ii) paragraph (h) of subsection (5) of section 223A of this Act, where that financial penalty is imposed in connection with proceedings relating to a conviction mentioned in paragraph (d) of that subsection, the court in respect of which the financial penalty was imposed or pronounced;
  - (b) in respect of a financial penalty mentioned in section 223A(5)(b) or (c) of this Act, the court the clerk of which is specified in the notice issued under section 302 or, as the case may be, 302A of this Act;
  - (c) in respect of a financial penalty mentioned in—
    - (i) section 223A(5)(e); or

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- (ii) paragraph (h) of subsection (5) of section 223A, where that financial penalty is imposed in connection with proceedings relating to a conviction as mentioned in paragraph (e) of that subsection, the court specified in the transfer of fine order made under section 90 of the Magistrates' Courts Act 1980 or Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981 as being the court by which the financial penalty is enforceable;
  - (d) in respect of a financial penalty mentioned in section 223A(5)(f) of this Act—
    - (i) the court in which the financial penalty has been registered for enforcement by virtue of section 71(2)(a) of the Road Traffic Offenders Act 1988 <sup>F13</sup>; or
    - (ii) the court in respect of which the registration certificate, as mentioned in section 71(2) of the Road Traffic Offenders Act 1988, has been sent by virtue of section 71(2)(b) of that Act; and
  - (e) in respect of a financial penalty mentioned in section 223A(5)(g) of this Act, the JP court specified in the fixed penalty notice which has been issued by virtue of section 129 of the Antisocial Behaviour (Scotland) Act 2004.
- (2) In sections 223F, 223H, 223I, 223K, 223P and 223S “the competent authority for Scotland” is—
- (a) the sheriff; or
  - (b) the JP court;
- having jurisdiction for the area in respect of which the person to whom the certificate is issued under section 223F(1) relates appears to normally reside or have property or income, or in the case of a body corporate or a partnership (including a Scottish partnership) the area in respect of which the person has its registered office or, as the case may be, its principal office of the partnership.

#### Textual Amendments

**F13** 1988 c.53; section 71 was amended by the Access to Justice Act 1999 (c.22), section 90, Schedule 13, paragraph 150(2).

### 223R Accrual of monies obtained from the enforcement of financial penalties

- (1) Subject to subsection (4), where a certificate requesting enforcement under the Framework Decision on financial penalties has been—
  - (a) issued under sections 223A or 226HA(4) of this Act, subsection (2) shall apply; or
  - (b) received under section 223F of this Act, subsection (3) shall apply.
- (2) Where this subsection applies the sum in respect of which the financial penalty relates shall be paid and treated as if that penalty were a penalty imposed in the member State other than the United Kingdom to which the certificate was issued.
- (3) Where this subsection applies the sum in respect of which the financial penalty relates shall be paid and treated as if that penalty had been imposed or pronounced on the liable person or otherwise adjudged to be paid by that person under this Act.
- (4) This section shall not apply where—

*Status: Point in time view as at 01/09/2015.*

*Changes to legislation: Criminal Procedure (Scotland) Act 1995, Cross Heading: The mutual recognition of criminal financial penalties is up to date with all changes known to be in force on or before 04 April 2024. There are changes that may be brought into force at a future date. Changes that have been made appear in the content and are referenced with annotations. (See end of Document for details)*

- (a) an agreement has been made between the United Kingdom and the member State other than the United Kingdom in respect of the treatment of the financial penalty, and that agreement provides for payment otherwise than as provided for in subsection (2) or (3); or
- (b) the financial penalty is one in respect of which section 223S applies.

### **223S Treatment of compensation monies**

- (1) This section applies to those financial penalties mentioned in—
  - (a) section 223A(5)(a) and (c) of this Act; and
  - (b) Article 1(b)(ii) and (iv) of the Framework Decision on financial penalties.
- (2) Payment of any sum under a financial penalty mentioned in subsection (1) shall be made by the central authority for Scotland or, as the case may be, by the competent authority for Scotland—
  - (a) to the victim; or
  - (b) in cases where the victim resides outwith Scotland, to the central authority of the member State, other than the United Kingdom, in which the victim of the offence to which the financial penalty relates resides.
- (3) In this section “victim” has the same meaning as given in section 249(1A) of this Act.

### **223T Interpretation of sections 223A to 223S**

- (1) In sections 223A to 223S of this Act—
  - “central authority”, in relation to a member State other than the United Kingdom, means an authority designated by that member State as a central authority for the purposes of the Framework Decision on financial penalties;
  - “central authority for England and Wales” means the authority designated for England and Wales as the central authority for the purposes of the Framework Decision on financial penalties;
  - “central authority for Northern Ireland” means the authority designated for Northern Ireland as the central authority for the purposes of the Framework Decision on financial penalties;
  - “central authority for Scotland” means the sheriff clerk of Lothian and Borders at Edinburgh;
  - “certificate” means the certificate as is provided for by Article 4 of the Framework Decision on financial penalties;
  - “decision” shall have the meaning given in Article 1 of the Framework Decision on financial penalties;
  - “Framework Decision on financial penalties” means Council Framework Decision 2005/214/JHA of 24 February 2005 on the application of the principle of mutual recognition to financial penalties [<sup>F14</sup>as amended by Council Framework Decision 2009/299/JHA]; and
  - “member State” means a member State of the European Union.
- (2) Unless the context otherwise requires, in sections 223F to 223P, 223R and 223S of this Act “financial penalty” has the same meaning as given in Article 1(b) of the Framework Decision on financial penalties.

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- (3) In sections 223A to 223C of this Act, “designated officer” of the competent authority for Scotland—
- (a) in the case of financial penalties mentioned in—
    - (i) section 223A(5)(a) or (d) of this Act; and
    - (ii) paragraph (h) of subsection (5) of section 223A of this Act, where that financial penalty is imposed in connection with proceedings relating to a conviction mentioned in paragraph (d) of that subsection, means the clerk of court in respect of which the financial penalty was imposed or pronounced;
  - (b) in the case of financial penalties mentioned in section 223A(5)(b) or (c) of this Act means the clerk of court specified in the notice, issued under section 302 or 302A, respectively, of this Act;
  - (c) in the case of financial penalties mentioned in—
    - (i) section 223A(5)(e) of this Act; and
    - (ii) paragraph (h) of subsection (5) of section 223A of this Act, where that financial penalty is imposed in connection with proceedings relating to a conviction as mentioned in paragraph (e) of that subsection, means the clerk of the court specified in the transfer of fine order made under section 90 of the Magistrates' Courts Act 1980 or Article 95 of the Magistrates' Courts (Northern Ireland) Order 1981 to which the financial penalty has been transferred for enforcement;
  - (d) in the case of financial penalties mentioned in section 223A(5)(f) of this Act means—
    - (i) the clerk of the court in which the financial penalty has been registered for enforcement by virtue of section 71(2)(a) of the Road Traffic Offenders Act 1988; or
    - (ii) the clerk of the court in respect of which the registration certificate, as mentioned in section 71(2) of the Road Traffic Offenders Act 1988, has been sent by virtue of section 71(2)(b) of that Act;
  - (e) in the case of financial penalties mentioned in section 223A(5)(g) of this Act, means the clerk of the JP court specified in the fixed penalty notice which has been issued by virtue of section 129 of the Antisocial Behaviour (Scotland) Act 2004; and
  - (f) in the case of a FEO acting in accordance with section 226HA of this Act, is to be construed as if references to such an officer were references to a FEO.
- (4) In sections 223F, 223H, 223I and 223K of this Act, “designated officer” of the competent authority for Scotland means the clerk of the court mentioned in section 223Q(2) of this Act or, as the case may be, a FEO acting in accordance with section 226A to 226G of this Act in respect of a financial penalty.]

#### Textual Amendments

**F14** Words in s. 223T(1) inserted (1.12.2014) by [The Mutual Recognition of Criminal Financial Penalties in the European Union \(Scotland\) \(No. 2\) Order 2014 \(S.S.I. 2014/336\)](#), arts. 1, 4

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**Changes to legislation:**

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